

Public Law 92-591

AN ACT

October 27, 1972
[S. 3843]

To authorize the Secretary of Transportation to make loans to certain railroads in order to restore or replace essential facilities and equipment damaged or destroyed as a result of natural disasters during the month of June 1972.

Emergency Rail
Facilities Resto-
ration Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Rail Facilities Restoration Act".

DEFINITIONS

SEC. 2 For the purpose of this Act—

(a) "Secretary" means the Secretary of Transportation.

(b) "Railroad" means any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1-27).

(c) "Net income" means ordinary income reported to the Interstate Commerce Commission pursuant to the relevant railroad annual report form, adjusted for extraordinary items of a nonrecurring nature and directly related to railroad operations.

24 Stat. 379;
84 Stat. 1499.

AUTHORIZATION

Loans.

Limitation.

47 Stat. 1474;
76 Stat. 572.

Appropriation.

SEC. 3. The Secretary is authorized to make loans, upon such terms and conditions as are specified by this Act and any others he deems appropriate, in an aggregate amount not to exceed \$48,000,000 to railroads undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), to railroads which have reported to the Interstate Commerce Commission in the railroad annual report a deficit net income for either of the last two calendar years, and to railroads whose certified damage to railroad facilities or equipment as a result of the natural disasters which occurred during the month of June 1972 exceeds their net income for either of the last two calendar years for the purpose of restoring or replacing railroad facilities, equipment, or services which are determined to be essential to public service (including, without limitation, bridges, track, track structures, signal and communication systems, and rolling stock) damaged or destroyed as a result of the natural disasters which occurred during the month of June 1972. There are authorized to be appropriated to the Secretary to remain available through June 30, 1975, such sums as are necessary to carry out the purposes of this Act.

TERMS AND CONDITIONS

SEC. 4. (a) Prior to making a loan under this Act the Secretary shall—

(1) find in writing that there is no other practicable means of obtaining funds from either private or government sources than a loan pursuant to this Act;

(2) require that application be made by a railroad in such form and substance as the Secretary shall prescribe;

(3) require satisfactory proof in writing of costs incurred or to be incurred in the restoration or replacement of essential railroad facilities, equipment, or services;

(4) take appropriate action to insure that funds loaned under this Act are used solely for the purpose of restoring or replacing facilities and equipment (including the upgrading of such facilities and equipment) damaged or destroyed as a result of the natural disasters of June 1972;

(5) obtain satisfactory assurances from the applicant railroad that the restoration or replacement to be accomplished with funds made available under the loan shall be completed without undue delay;

(6) require as a condition of the loan that the United States obtain such security as the Secretary deems will adequately protect the interests of the United States except that, in the case of a railroad undergoing reorganization under section 77 of the Bankruptcy Act, as amended (11 U.S.C. 205), if the Secretary expressly determines in writing that the railroad does not have sufficient working capital to fund the restoring or replacing of essential railroad facilities, equipment, or services, he may, notwithstanding section 3466 of the Revised Statutes (31 U.S.C. 191) or any other law, require any priority or subordination of the interests of the United States he deems to be appropriate in relation to the claims of any other creditors of the railroad or its trustees, so long as such position is not lower than that of a prebankruptcy unsecured creditor of the railroad; and

47 Stat. 1474;
76 Stat. 572.

(7) require that no part of the restoration or replacement work to be financed by the loan program hereunder which is presently or should be performed under collective bargaining agreements by railroad employees shall be subcontracted by the railroad; except that to the extent that the Secretary finds in writing that railroad employees, including employees on furlough, in the affected region are insufficient to perform such restoration or replacement work and that such railroad employees on furlough, if not recalled by the railroad will be employed by a subcontractor to perform such work in which event such employees shall be deemed to be railroad employees retaining all the rights and privileges of railroad employees while so employed.

(8) None of the foregoing conditions shall apply to such work undertaken prior to the enactment of this Act.

(b) No loan application shall be approved under this Act after eight months have elapsed from its date of enactment.

(c) (1) The Secretary in reviewing applications for loans shall examine such applications to determine whether any service or facility which is essential to the public interest in maintaining transportation service, including specifically the Sunbury-Wilkes-Barre (Buttonwood) line, will not be restored or replaced. In making such determination the Secretary shall take into consideration the interests of persons and communities affected thereby; existing rail facilities and the pattern of service by railroads; and the public interest in a balanced and economical transportation system responsive to the needs of the public and the users of such system.

Restoration or
replacement.

(2) If after such determination the Secretary finds that any such service or facility of the applicant railroad will not be restored or replaced, the Secretary shall not approve such application unless and until such application is amended to include such restoration and replacement.

(3) As an aid to the formulation of public policy regarding rail transportation, the Secretary shall prepare and keep current a comprehensive schedule setting forth transportation facilities and services that he believes should be provided by railroads in the northeastern region of the United States. In formulating such a schedule the Secretary shall take into consideration the interests of persons and communities affected thereby; existing rail facilities and the pattern of service by railroads; and the public interest in a balanced and economical transportation system responsive to the needs of the public and the users of such system.

(4) The Secretary shall provide as a condition of the loan that, in consideration of the relief provided by this Act, the railroad shall offer to convey to the State, for just compensation, or in the event any such railroad is subject to a proceeding under the bankruptcy laws, the court having jurisdiction in such bankruptcy proceedings shall direct the trustee or trustees or the debtor to offer to convey to the State, for just compensation, all of its right, title, and interest free and clear of all encumbrances, in any right-of-way, track, and other related real and personal property on any branch line within such State which has been damaged or destroyed as a result of the natural disasters of June 1972; which have not been scheduled for restoration or replacement under the loan program as approved by the Secretary; and which such State, or subdivision thereof, proposes to restore or replace.

STATE AND LOCAL AUTHORITY

SEC. 5. (a) The Secretary is authorized to make loans pursuant to this section to assist regional, State, and local public bodies and agencies thereof in financing the restoration and replacement of railroad facilities and equipment damaged or destroyed as a result of the natural disasters of June 1972. Eligible facilities and equipment may include railroad right-of-way, track, rolling stock, and other real and personal property needed for an efficient and coordinated railroad transportation system and conveyed in accordance with the provisions of section 4(c)(3).

(b) No such loan shall be provided unless the Secretary determines that the applicant has or will have—

(1) demonstrated a valid need for the establishment or reestablishment of railroad service in the affected area; and

(2) the technical capability to carry out the proposed project.

Limitation.

(c) Any such loan may be made for not to exceed 80 per centum of the total costs of the proposed project and shall be subject to such other terms and conditions as the Secretary may determine are necessary to carry out the purposes of this section.

Appropriation.

(d) There is authorized to be appropriated not to exceed \$10,000,000 to carry out the provisions of this section. Sums so appropriated shall remain available through June 30, 1975.

(e) The Secretary shall impose as a condition of any such loan under this section such fair and equitable labor protective arrangements as are described in the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 565).

Ante, p. 230.

LINE ABANDONMENT

SEC. 6. (a) Except as provided in subsection (b) of this section, and except for the conveyance of facilities pursuant to subsection 4(c)(3), all abandonment of facilities and services shall continue to be subject to the appropriate provisions of the Interstate Commerce Act.

(b) The damage or destruction caused by the natural disasters of June 1972 to any railroad facility, equipment, or service therefrom, of a railroad obtaining assistance under this Act, or any action taken pursuant to this Act affecting any railroad, shall not be evidence in any proceeding before any Federal agency or in any court in which line abandonment is an issue. Any violation of this section shall be deemed to be prejudicial.

24 Stat. 379.
49 USC prec.
1 note.

INTEREST RATES

SEC. 7. Any loan made under this Act shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 per centum per annum. In no event shall any loan made under this Act bear interest at a rate in excess of 6 per centum per annum.

DEFERRAL OF PAYMENT

SEC. 8. Whenever he determines it necessary to insure the provision of essential transportation services of a railroad, the Secretary may in his discretion provide in the terms and conditions of a loan under this Act for deferral of the payment of principal and interest on the loan for a period not to exceed ten years from the date the loan is made.

RULES AND REGULATIONS

SEC. 9. The Secretary shall issue such rules and regulations as are appropriate to carry out the purposes of this Act.

ENFORCEMENT

SEC. 10. The Secretary shall insure that railroads which obtain loans under this Act comply with the provisions of this Act and any rules, regulations, or conditions imposed by the Secretary pursuant to this Act. In the event of any failure to comply with such provisions, rules, regulations, or conditions, the Secretary may take such enforcement action as he deems appropriate including a declaration that the obligation of applicant railroads is immediately due and payable as a claim of the United States without regard to any other provision of the loan or of this Act.

REPORTS

SEC. 11. The Secretary shall, within one year after enactment of this Act, report to the President and to the Congress with respect to his activities pursuant to this Act, including an evaluation of the financial conditions of railroads which obtained loans under this Act and including an evaluation of the impact of this Act on the condition of the rail facilities and services described in the schedule prepared under subsection 4(c)(1) of this Act. Such report shall also include recommendations, if any, for additional legislation action.

AUDIT

SEC. 12. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to such information, books, records, and documents as he determines necessary to effectively audit financial transactions and operations carried out by the Secretary in the administration of this Act. The Comptroller General shall make such reports to the Congress on the results of any such audits as are appropriate.

Reports to Congress.

INTERSTATE COMMERCE COMMISSION APPROVAL

SEC. 13. A railroad qualifying for a loan or loans under the provisions of this Act shall not be required to comply with the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a) with respect to such loan or loans.

Approved October 27, 1972.

Public Law 92-592

AN ACT

To establish the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Recreation Area," numbered 951-40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

41 Stat. 494;
79 Stat. 263.

October 27, 1972
[S. 1852]

Gateway National
Recreation
Area, N.Y.-N.J.
Establishment.

Boundary revisions,
publication in Federal Register.

Lands, waters,
acquisition.